

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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In the Matter of the Petition of

MALCOLM GERARD CESAR,

as Sole Trustee of the Les Maîtres d'Art Haïtiens Trust,

For an Order Appointing a Fiduciary Auctioneer for the Purpose of Disposing of Certain Trust Assets.

Index No. 100682/2025

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AFFIDAVIT IN SUPPORT OF EX PARTE APPLICATION

FOR APPOINTMENT OF A FIDUCIARY AUCTIONEER

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

MALCOLM GERARD CESAR, being duly sworn, deposes and says:

I am the Sole Trustee of the Les Maîtres d'Art Haïtiens Trust (hereinafter referred to as the "Trust"), the petitioner in this proceeding, and submit this affidavit in support of the application for an ex parte order appointing a neutral fiduciary auctioneer to conduct, manage, and supervise the auction of artworks held by the Trust. I have personal knowledge of the facts herein except as otherwise stated, and where stated to be on information and belief, I believe such information to be true.

The Trust is a charitable trust duly established under the laws of the State of New York for the preservation, exhibition, and promotion of Haitian art for the benefit of the public and future generations. The charitable purpose of the Trust is principally set forth in Article VI of the Trust Agreement.

Pursuant to the Trust Agreement, specifically Article VI, the Trustee is authorized to sell artwork held by the Trust, with the express requirement that all net proceeds from such sales be applied exclusively to charitable purposes consistent with the Trust's objectives.

To ensure transparency, impartiality, and compliance with fiduciary standards, I respectfully request that this Court appoint a neutral fiduciary auctioneer, qualified and eligible under Part 36 of the Rules of the Chief Judge, to oversee the disposition of the Trust's artwork.

Upon appointment, the fiduciary auctioneer shall be authorized to:

- a. Conduct professional appraisals of the Trust's artwork holdings;
- b. Organize, manage, and execute a public auction or equivalent sale process;
- c. Maintain detailed records of the auction proceedings and submit regular reports to this Court; and
- d. Ensure that all net proceeds from the sale are applied exclusively to the charitable purposes as set forth in Article VI of the Trust Agreement.

I shall cooperate fully with the fiduciary auctioneer and provide timely access to all relevant documentation and Trust assets necessary to effectuate the sale.

I further request that no commission, fiduciary fees, or legal fees be paid to any party in connection with this appointment or the auction without further Order of this Court, consistent with Article VI of the Trust Agreement and the Trust's express directive to maximize charitable distributions.

The request for waiver of fees and commissions is warranted because:

- a. One hundred percent (100%) of the proceeds from the auction will be used exclusively for charitable programs pursuant to Article VI of the Trust Agreement;
- b. The Trust is subject to oversight by the New York Attorney General's Charities Bureau, which advocates for cost-effective and transparent administration of charitable trusts;
- c. The Trust Instrument explicitly mandates maximizing proceeds for charitable purposes and limits administrative and fiduciary expenses;
- d. Waiving commissions and legal fees will ensure full application of auction proceeds toward the Trust's philanthropic mission and public benefit.

This application is made ex parte and without notice, as the relief sought is ministerial in nature, involving only the appointment of a fiduciary auctioneer pursuant to the Trust Agreement. There are no adverse parties requiring notice or opportunity to be heard.

WHEREFORE, I respectfully request that this Court grant the relief sought in the accompanying petition and enter an Order appointing a fiduciary auctioneer and waiving commissions and fees consistent with the Trust's charitable purpose.

FURTHER AFFIANT SAYETH NOT.

Dated: 08/11/25, 2025

New York, New York

MALCOLM GERARD CESAR: 

Sole Trustee, Les Maîtres d'Art Haïtiens Trust

NOTARY ACKNOWLEDGMENT – AFFIDAVIT OF MALCOLM GERARD CESAR

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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STATE OF GEORGIA

COUNTY OF Cherokee

On this 1 day of 8, 2025, before me, the undersigned Notary Public, duly commissioned and authorized by the laws of the State of Georgia to administer oaths and take acknowledgments, personally appeared Malcolm Gerard Cesar, who is personally known to me or has produced satisfactory evidence of identification, and who, after being duly sworn, did execute and acknowledge the veracity and voluntariness of the document titled:

"AFFIDAVIT IN SUPPORT OF EX PARTE APPLICATION FOR APPOINTMENT OF A FIDUCIARY AUCTIONEER"

The affiant affirms under penalty of perjury that he is the Sole Trustee of the Les Maîtres d'Art Haïtiens Trust, the petitioner in the above-captioned matter filed in the Supreme Court of the State of New York, County of New York, and that the contents of the affidavit relate to an urgent request for judicial appointment of a fiduciary auctioneer to oversee the disposition of certain trust assets.

As Trustee of the Les Maîtres d'Art Haïtiens Trust, the affiant affirms that, pursuant to Article VI of the governing Trust Agreement, 100% of net proceeds from the sale of trust-owned artwork shall be applied exclusively to charitable purposes, and that immediate judicial oversight is necessary to ensure compliance with the Trust's fiduciary and charitable mandates.

This acknowledgment is executed in accordance with Georgia Notary Law, O.C.G.A. §§ 45-17-1 et seq., and confirms that the above-named affiant personally appeared before me, was sworn under oath, and voluntarily executed the affidavit for the purposes stated therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official notarial seal on the day and year first above written.


Notary Public – State of Georgia

(Official Notarial Seal Required)



RILEY MCCALL
NOTARY PUBLIC
Cherokee County
State of Georgia
My Comm. Expires July 29th, 2026

My Commission Expires: 7/29/26

Notary Public Commission Number: N/A